

DOCKET FILE COPY ORIGINAL

ORIGINAL

RECEIVED

MAY - 5 1994

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

In the Matter of

800 Data Base Access Tariffs and the

800 Service Management System

CC Docket 93-129

TO THE COMMISSION

REPLY OF THE BELL OPERATING COMPANIES
TO COMMENTS ON THE DIRECT CASE FOR THE
800 SERVICE MANAGEMENT SYSTEM (SMS/800) FUNCTIONS TARIFF

May 5, 1994

No. of Copies rec'd
List ABCDE

10416

SUMMARY

Of all the participants in this proceeding, only MCI makes any significant complaint about the charges or terms in the SMS/800 Tariff. (Sprint merely wants information about the BOCs' first year experience under this tariff,¹ and Allnet quarrels with provisions relating to insurance and indemnification for patent infringement.²) Moreover, many of MCI's problems are not really with the SMS/800 Tariff, but rather are with the progress of the industry groups to which the Commission has entrusted the development of procedures for national 800 Data Base Access Service. Whatever the merits of these complaints, they are irrelevant to the BOCs' demonstration that the terms of their tariff are reasonable.

¹ In the Matter of 800 Data Base Access Tariffs and the 800 Service Management System Tariff, Comments of Sprint Communications Company LP, April 15, 1994, p 18.

² In the Matter of 800 Data Base Access Tariffs and the 800 Service Management System Tariff, Comments of Allnet Communication Services on Direct and Supplemental Cases of the Bell Operating Companies, April 15, 1994, pp 8-10.

REPLY COMMENTS OF
BELL OPERATING COMPANIES

CC Docket No. 93-129

RECEIVED

MAY - 5 1994

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Table of Contents

<u>Subject</u>	<u>Page</u>
Summary	i
I. THE TERMS AND CONDITIONS IN THE BOCs' TARIFF ARE REASONABLE	1
1. The SMS/800 Tariff properly addresses and is consistent with industry agreements related to Responsible Organizations (Resp Org) changes	1
2. The Resp Org change process administered by the 800 Number Administration and Service Center (NASC) is reasonable, timely and effective	2
3. The tariff properly excludes definition of the business arrangement between a Resp Org and the end-user customer and restrictions on the provisions of vertical features by LECs.....	4
4. The tariff's liability provisions relating to patent infringement are appropriate and reflect industry standards	4
5. The liability insurance provisions represent normal business practices	6
6. The billing and credit provisions are reasonable	7

**REPLY COMMENTS OF
BELL OPERATING COMPANIES**

Subject

Page

II.	THE BOCs HAVE DEMONSTRATED THAT SMS/800 COSTS, COST ALLOCATIONS AND RATES ARE REASONABLE, NON-DISCRIMINATORY, AND PROPERLY SUPPORTED	8
1.	All SMS/800 costs are reasonable and have been properly allocated between tariffed and non-tariffed services	8
2.	All costs related to affiliated entities comply with applicable rules, are reasonable and have been properly supported and accounted for	11
3.	The costs of upgrading the data center and ongoing operations are reasonable, appropriately described and supported by detailed documentation	15
4.	The methods used to allocate central processor and software support costs are logical, reasonable, and described in a clear and concise manner in supporting documentation	16
5.	The accounting classification of SMS/800 expenses and their treatment for Separations purposes is reasonable	18
6.	The BOCs' assumptions in forecasting demand are reasonable	21
7.	The charge for Resp Org changes is reasonable	21
8.	The BOCs have filed revised rates to reflect actual costs and demand experienced.....	22

I. THE TERMS AND CONDITIONS IN THE BOCs' TARIFF ARE REASONABLE.

- 1. The SMS/800 Tariff properly addresses and is consistent with industry agreements related to Responsible Organization (Resp Org) changes.**

MCI¹ indicates that the BOCs have failed to include the nationally accepted Industry Guidelines for 800 Number Administration (the Guidelines) as a formal section of the SMS/800 Tariff. MCI agrees that certain parts of the Guidelines have been incorporated into the tariff, but states that the BOCs have not gone far enough. MCI points particularly to the Guidelines sections that address the responsibilities of a Resp Org to carriers and subscribers with whom the Resp Org has an agreement. MCI has argued this issue before and the BOCs have responded that the SMS/800 Tariff can only contain those items from the Guidelines that are under the control of the BOCs (e.g., the maximum amount of time a number can remain in reserved status). The BOCs and the SMS/800 Tariff provisions cannot control how a Resp Org conducts its business with its contractual suppliers (carriers). In these cases, the tariff can only refer the Resp Org to the voluntary guidelines developed in industry forums.

The BOCs will continue to work closely with the industry on number administration guidelines and will commit to including all items in the tariff

¹ In the Matter of 800 Data Base Access Tariffs and the 800 Service Management System Tariff, MCI Telecommunications Corporation Comments, April 15, 1994, pp 73-74.

for which the tariff has true governancc. It is not the intent of the BOCs through the SMS/800 Tariff to circumvent any nationally accepted guidelines.

2. The Resp Org change process administered by the 800 Number Administration and Service Center (NASC) is reasonable, timely and effective.

MCI complains of several related issues surrounding Resp Org change and Resp Org change procedures.² MCI has not cited any specific instances or provided any hard data to substantiate its claims. However, MCI, in requesting that the Commission encourage the industry to develop NASC verification procedures for Resp Org changes, is cognizant of the fact that Resp Org related issues should be handled through an industry forum. Most of the issues of which MCI complains have been addressed by the Ad Hoc 800 Database Committee of the Carrier Liaison Committee (CLCAH), a committee to which MCI belongs.³ The CLCAH is the appropriate forum in which these issues need to be resolved. The Commission need not adjudicate issues which this industry forum has been charged with addressing.

MCI claims that the NASC Resp Org change process is fraught with problems, and that several unauthorized Resp Org changes have involved the NASC.⁴ The NASC has processed 3322 Resp Org changes from different Resp Orgs during a 6-month period from 10/15/93 through 4/14/94. Of those changes 95.2% were processed within two business days of the NASC receiving them. Given these facts MCI's characterization of the NASC's

² Id. at 76-80.

³ Id.

⁴ Id. at 76.

performance is clearly erroneous. In addition, during the same interval, 10/15/93 to 4/14/94, 230 inquiries regarding Resp Org changes from 58 different Resp Orgs, including 18 calls from MCI, were processed by the NASC. Of these 230 queries, 2 calls involved changes to the wrong Resp Org, and 1 call contended that a wrong number was changed. In effect, the accuracy rate for Resp Org changes by the NASC during the stated time period was 99.91%.

MCI's position is that verification of the validity of a Resp Org change request should fall to the NASC. The burden of such verification, however, is not within the purview of the NASC's responsibility. The liability surrounding making an unauthorized Resp Org change must rest with the receiving Resp Org requesting the change. The customer ultimately belongs to the receiving Resp Org and the burden of a smooth, accurate transition should lie therein. The placing of liability where it should rightfully lie, on the receiving Resp Org, should promote accuracy and eliminate invalid changes.

MCI complains that limiting change requests to written, mailed authorization inhibits flexibility and efficiency that other media would provide.⁵ MCI suggests that media such as facsimile, electronic and batch update should be acceptable. At its November 30, 1993 meeting the CLCAH adopted a proposal that in emergency situations, faxes would be accepted for Resp Org change requests. The CLCAH defined which situations would be considered emergencies. The security reasons for such requirements are paramount.

⁵ Id. at 77.

3. The tariff properly excludes definition of the business arrangement between a Resp Org and the end-user customer and restrictions on the provisions of vertical features by LECs.

MCI alleges that the SMS Tariff is "also unreasonable in that it fails to incorporate the Commission's clear prohibition against the sale of vertical features by the LECs to parties other than those who directly purchase network access from the LECs."⁶ MCI is suggesting that the SMS/800 Tariff be used as a policing vehicle for the Commission. Such a suggestion is inappropriate. The SMS/800 Tariff properly addresses those relationships to which it is a party and correctly excludes references to business relationships between the Resp Org and its end user customers.

As in other instances, MCI is confusing the BOC SMS/800 ownership responsibilities and the BOC access service provider responsibilities. The two are separate and distinct from each other. Indeed, vertical features are not services which are provided from the SMS/800 Tariff, and, as such, mention of restrictions associated with them is properly excluded from the tariff. This issue is one which the Commission should address with individual Resp Orgs which are in violation of the restrictions, not with the BOCs collectively as issuing carriers of the SMS/800 Tariff.

4. The tariff's liability provisions relating to patent infringement are appropriate and reflect industry standards.

⁶ Id. at 68.

Allnet, the only commenter to challenge the tariff's liability provisions, asserts⁷ that Sec. 2.1.3 (C) on patent liability is unfairly broad, negates Sec. 2.1.3(H) on indemnification, and should be replaced with more standard patent infringement language found in other BOC tariffs.

This tariff condition is not overly broad. It properly indemnifies the BOCs against possible patent infringement claims arising from the actions of others, such as Resp Orgs or 800 subscribers. As Allnet correctly noted in its comments, the tariff language protects the BOCs in cases where claims may arise when their tariffed service is used with facilities or equipment furnished by the Resp Org. But it also indemnifies the BOCs from acts of the 800 subscriber. Unlike other BOC access services, actions by either the Resp Org or the 800 subscriber could generate claims. The BOCs are entitled to be indemnified from any possible combinations of facilities or equipment which could be used by a Resp Org and/or its subscriber which result in damages or harm to another.

Moreover, contrary to Allnet's claim, Section 2.1.3(I) is not unfairly broad nor does it negate Section 2.1.3(H). First, in this section the BOCs are stating that they can assume no liability for the services which are procured under this tariff to the extent that they are combined with or "used in any method or process." The BOCs are selling the services as is. This section merely explains that they cannot assume any liability if the user of the service chooses to combine it with other methods or processes, and it either doesn't work, or somehow causes the customer to incur damages. This disclaimer

⁷ In the Matter of 800 Data Base Access Tariffs and the 800 Service Management System Tariff, Comments of Allnet Communication Services on Direct and Supplemental Cases of the Bell Operating Companies, April 15, 1994, pp 8-10.

does not negate Section 2.1.3(H). Section 2.1.3(H) addresses indemnification and merely states that the BOCs will indemnify Resp Orgs who take services under this tariff using the SMS/800 method of 800 data base service from any patent infringement claims (emphasis added). In other words, indemnification against patent infringement claims will be provided for Resp Orgs who take the service as is. The indemnification section on patent claims cannot possibly negate the liability disclaimer in Section 2.1.3(I). They address two distinct, albeit related, legal doctrines. Further, Section 2.1.3(I) does not override any other provision - it speaks to assumption of liability, not indemnification from certain specific claims.

5. The liability insurance provisions represent normal business practices.

Allnet⁸ is the only commenter to argue that liability insurance should not be required as set forth in Section 2.3.4(A). Allnet's argument essentially is that insurance should not be required because Allnet does not think it is needed. Allnet argues that the BOC interconnection tariff is not a persuasive precedent because, unlike the case in the SMS/800 Tariff, physical interconnection by a customer could cause unpreventable external harm. Allnet claims that any harm caused by a Resp Org or customer using the SMS/800 Tariff will be taken care of by the marketplace.

While it is probably accurate to say that customers will try to choose competent Resp Orgs, and that incompetent Resp Orgs will not be in business "in the long term" because they will not have customers, what Allnet fails to address is who pays for the damages they cause before they go out of

⁸ Id. at 10.

business? It is reasonable and consistent with normal commercial practices for the tariff to require Resp Orgs to carry insurance to protect others. It is especially appropriate here because the SMS/800 Tariff services are provided at cost, with no built-in profit component, and have no reserves with which to cover any damages caused by an irresponsible Resp Org.

6. The billing and credit provisions are reasonable.

MCI contends that the three-hour threshold is unreasonably high and in some instances would have a serious impact on service.⁹ The SMS/800 Tariff provides for credit allowance when SMS/800 experiences unscheduled downtime in excess of three hours. The three-hour threshold for credit allowance is reasonable and does not represent a threat to a Resp Org's service.

The SMS/800 is only an order processing system and is not involved with the actual transport of 800 calls. Therefore, a customer's 800 service is not generally harmed when the SMS/800 goes down. During the down time, the Resp Org will not be able to create new records or make changes to existing records, but 800 records in the system continue in effect. If changes are required on an emergency basis during SMS/800 downtime, the Resp Org could seek the assistance of the SCP Owner/Operator to make changes in customer routing. Under these circumstances, credit for down time in excess of three hours is reasonable.

⁹ MCI p 75.

MCI is concerned that Resp Orgs will be charged on an estimated basis without documentation.¹⁰ Rendering a bill for estimated charges is a reasonable and accepted practice. The SMS/800 Tariff in Section 2.4.1 states that charges will be billed on an incurred basis. However, if there is a lack of adequate computer information at the time of billing, an estimated bill will be rendered based on the previous month's charges and an adjusted bill with auditable backup detail will be rendered as soon as feasible. This is standard business practice for services that are incurred month after month and does not inflict any hardship for the subscriber. In fact, this practice helps the customer in that it enables the customer to have balanced payments in place of the potential to be billed a large lump sum at a later date when the billing data is available.¹¹

II. THE BOCs HAVE DEMONSTRATED THAT SMS/800 COSTS, COST ALLOCATIONS AND RATES ARE REASONABLE, NON-DISCRIMINATORY, AND PROPERLY SUPPORTED.

1. **All SMS/800 costs are reasonable and have been properly allocated between tariffed and non-tariffed services.**

MCI questions the reasonableness of the SCP Owner/Operator portion of the total SMS/800 costs by stating that:

¹⁰ Id.

¹¹ Since the first bill issued in June of 1993, accurate data for Resp Org charges have been available and no estimated bills have been issued. It is not anticipated that there will be problems with the system. Estimated bills will only be used as a stop gap measure when there has been a problem with the system to provide for consistency in billing over the months. In the event that the computer information is not available, customers still incur the charges and are liable for those charges. Rendering estimated bills based on known customer history enables the customer to budget expenses and maintains the revenue flow necessary to operate the SMS/800.

the costs recovered in 800 data base access rates and the rates charged for SMS access are unreasonable in that they appear to be in excess of 100% of the costs of providing the SMS functionality.¹²

The gist of MCI's allegation is based on its analysis of SCP Owner/Operator cost recovery (based on MCI's interpretation of data in the BOCs', GTE's and United's direct cases and MCI's own assumptions in calculating these LECs' intrastate costs). MCI concludes that since the LECs are recovering \$4.3 million more annually than MCI's calculation of what they should be recovering, there must be some double recovery; therefore, the SMS/800 rates and the LECs' data base query rates are unreasonable.¹³

MCI's allegation appears to be based on its expectation that the costs allocated to the SCP Owner/Operators in the SMS/800 tariff cost allocation process should equal or be less than the sum of the exogenous costs submitted individually by each of the SCP Owner/Operators in their direct cases for the data base query rates. MCI's expectation is unrealistic because separate processes are used to estimate the two numbers. The total SMS/800 costs allocated to the SCP Owner/Operators reflect estimates, in aggregate, of the total SMS/800 cost and total demand for SMS/800 services for the 56-month study period. DSMI forecasts the total quantities of cost and demand. However, the estimates of exogenous costs to be recovered are developed individually by each SCP Owner/Operator on the basis of the expected price of the SMS/800 services it will use and its own individual forecast of the quantity of each service element it expects to use for its own study period (which may, or may not coincide with the SMS/800's 56-month study period).

¹² MCI p 70.

¹³ Id. at 38-40.

Thus, it is reasonable and realistic to expect that the two numbers cannot be reconciled.

Allnet claims that systematic discrimination exists against Resp Orgs because they obtain their SMS/800 services under tariff while the SCP Owner/Operators obtain their services under contract and under different rates, rate structures, and terms and conditions.¹⁴ Allnet offers as an example of discrimination the fact that the SCP Owner/Operator price/rate structure does not include a non-recurring rate for activation of the Mechanized Generic Interface (MGI) capability whereas the SMS/800 Tariff for Resp Orgs does.¹⁵ Allnet also claims that Table A on page 25 of the BOCs direct case, indicates a strong bias towards loading costs on tarified services.¹⁶

Allnet's allegations ignore the explanations and details provided in the BOCs' SMS/800 direct case pertaining to cost allocations between tarified and non-tarified services as well as the purpose of Table A and the nature of the information it contains. To begin with, the rate structures are different because the services are different. For example, SCP Owner/Operators use data base (SCP) translation, validation and downloading services that Resp Orgs do not use. Conversely, the Resp Orgs buy services such as 800 customer record administration (including 800 number reservations and MGI access to the SMS/800) which the SCP Owner/Operators do not need or use for SCP updating and network management. However, some SMS/800 services (or rate elements), such as Service Establishment and SMS/800

¹⁴ Allnet p 11.

¹⁵ Id.

¹⁶ Id.

Access, are used by both and offered under consistent terms, conditions and prices.¹⁷

Allnet also mis-characterizes the information in Table A in the BOCs' direct case. As is clearly explained in pages 23 and 24 of the BOCs' SMS/800 direct case, Table A summarizes the SMS/800 costs as instructed in question number 12 of the Commission's Designation Order. Table A divides the year-by-year distribution of Administrative (ongoing) and Product Development (start-up) costs between tariffed services provided to Resp Orgs and non-tariffed services provided to SCP Owner/Operators. As such, it summarizes the results of cost allocations to rate elements and cannot be used to substantiate Allnet's allegation of cost allocation bias. The costs for a group of customers requiring more services and resources is greater than the costs for a group of customers requiring less.

It is clear that Allnet's allegations are unfounded. The BOCs' SMS/800 direct case provided all the information and explanations needed by Allnet to substantiate any specific instances of discrimination. The fact that it is unable to do so, and instead relies on vague and unfounded allegations, confirms the fact that SMS/800 cost allocations are just, reasonable and non-discriminatory.

2. All costs related to affiliated entities comply with applicable rules, are reasonable and have been properly supported and accounted for.

¹⁷ Exhibit 1 in Appendix 1 of Attachment 1 to the BOCs SMS/800 direct case which displays the allocations of data center costs to all SMS/800 services, illustrates the level of detail provided. Attachment 1 in Appendix 1 describes the cost allocations methodology and rationale used.

Although MCI and Allnet repeatedly invoke reference to the FCC's affiliate transaction rules,¹⁸ both rely on different interpretations of the same rule and neither demonstrates that the BOCs have violated the rules. Additionally, they have not shown that the costs recorded on DSMI's books on behalf of the BOCs for the SMS/800 related services including the Southwestern Bell Telephone Company's (SWBT) Kansas City Data Center (KCDC), and Bellcore SMS/800 and BILL/800 software, are not fully distributed costs.

MCI,¹⁹ for example, asserts that since SWBT, one of Bellcore's owners, owns the data center and bills Bellcore for its use, that is an affiliate transaction subject to the rules. The BOCs do not purchase substantially all of their services from SWBT nor are they affiliates of SWBT. Nor does SWBT receive substantially all of its services from the other BOCs. Further, the services the BOCs receive are also provided to numerous unaffiliated entities. Therefore the affiliate transaction Rules are not applicable to these transactions.

On the other hand, Allnet²⁰ asserts that the affiliate transaction rules require that the SWBT KCDC costs be recorded at the market rate. Allnet, too, misreads Rule 32.27(d). The rule states: "Services provided by an affiliate to the regulated activity, when the same services are also provided by the affiliate to unaffiliated persons or entities, shall be recorded at the market rate." SWBT may, through Bellcore/DSMI, be providing services to regulated

¹⁸ MCI pp 63-68; Allnet pp 12-13.

¹⁹ MCI p 64.

²⁰ Allnet p 12.

entities, that is, the BOCs, but it is not affiliated with the BOCs. Thus Allnet's analysis of the rule is incorrect.

At the heart of both MCI's and Allnet's assertions are whether the Bellcore software costs, those for the SMS/800 and those for the BILL/800 software, are based on fully distributed costs, and whether the costs for SWBT KCDC are just and reasonable. Specifically, their objections are: 1) that the tariff costs are not properly allocated between services²¹; 2) that the individual tariff cost components are not sufficiently delineated, particularly with regard to the Bellcore costs for SMS/800 and BILL/800 software support²²; 3) that the costs for the SWBT KCDC are not just and reasonable because the service was not competitively bid²³; and 4) that costs for CIC expansion should not be recovered through the tariff.²⁴

The transactions between Bellcore and the BOCs are subject to the affiliate transaction rules and, as indicated in the BOCs' direct case, those costs for the SMS/800 software and the BILL/800 software are based on fully distributed costs and billed to the BOCs accordingly. A detailed description of each of those cost items was fully delineated and previously submitted as Exhibit 1 in the BOCs' Reply Comments and in Attachment 4 in the BOCs' Direct Case submittals.

²¹ MCI p 63.

²² *Id.* at 68.

²³ MCI pp 67-68; Allnet p 12.

²⁴ MCI p 68; The costs for the Carrier Identification Code (CIC) expansion are properly included in the SMS/800 rates. Due to the FCC's mandate to implement nationwide portability, additional lines of software code and tables had to be written into the existing SMS/800 software.

The SWBT KCDC costs are also based on fully distributed costs, although they are not subject to the affiliate transaction rules. A full description of these costs appears in Attachments 1 and 4 of Appendix 1 in the BOCs' direct case, as well as in SWBT's direct case.

In its comments, Allnet questions why the hardware support was not originally put out for competitive bid and suggests that the Commission should now require the BOCs to obtain the support services through a competitive bid process. When the Commission ordered the rapid deployment of nationwide 800 Data Base Access Service, SWBT was already providing the computer center and hardware support services. The BOCs concluded that it would be foolish to try to choose a new provider during the relatively short transition period. It was paramount that the experience and expertise of the existing data center staff be available to assure a smooth transition to full number portability, and to assure there was no harm to the users of the system. Now that data base access has been successfully implemented, the BOCs have announced that they intend to issue a RFP for the services now performed by SWBT.

With respect to the SMS/800 costs associated with CIC expansion, MCI²⁵ mistakenly interprets the Commission's disallowance of equal access costs for exogenous cost treatment as extending to the SMS/800 Tariff. Specifically, MCI contends that the costs of Bellcore software support for network enhancement for Carrier Identification Code (CIC) expansion should be disallowed. However, in its Orders,²⁶ the Commission was addressing the

²⁵ MCI p 68.

²⁶ Price Cap Order para. 180; Price Cap Reconsideration Order at paras. 64-66.

price cap tariffs of the individual BOCs, not a tariff that had not yet been mandated, let alone filed, at that time.

The SMS/800 Tariff was not filed subject to price cap regulation. Therefore, the price cap requirements referenced by MCI have no relevance with respect to this tariff. The SMS/800 Tariff is strictly a cost based tariff. As such, the BOCs are allowed to recover all costs associated with providing the services therein, including the software costs alluded to by MCI.

Thus, contrary to the assertions of MCI and Allnet, the relationship between Bellcore and the BOCs or between Bellcore and SWBT does not support any inference that Bellcore costs are inflated or unjust and unreasonable. To the contrary, those costs are thoroughly delineated in the BOCs' direct case, and have been shown to be just and reasonable.

3. The costs of upgrading the data center and ongoing operations are reasonable, appropriately described and supported by detailed documentation.

MCI claims that the BOCs have failed to justify the costs incurred to upgrade the data center for national 800 database service because they have not explained their usage forecast or other methodology used to allocate costs.²⁷

MCI's allegation is unfounded. The BOCs have provided ample information describing the allocation of data center costs. Two methods were used to allocate costs. The first method, based on usage of data center

²⁷ MCI pp 66-67.

components by the applications served, was applied by SWBT, the data center operator, to determine the SMS/800's share of the total cost. A detailed description was provided in SWBT's direct case in pages 30-33 of Exhibit D and is, in fact, referenced extensively in footnote 211 of MCI's comments at page 67.

The second method was applied by the BOCs to allocate the SMS/800's share of the total KCDC cost to the specific services (rate elements) provided to Resp Orgs and SCP Owner/Operators. This methodology was described in detail in Attachment 1 of Appendix 1 in the BOCs' direct case. The methodology was applied to ongoing operational costs incurred as of May 1, 1993, the start of national 800 database service, and was also applied to the costs incurred from mid-1992 through April 30, 1993 to provide additional processing, storage and communications capacity required for national 800 database service. The application of the same methodology to both the ongoing and operational costs is logical and reasonable because the cost components and usage characteristics are identical for both types of cost.

4. The methods used to allocate central processor and software support costs are logical, reasonable, and described in a clear and concise manner in supporting documentation.

MCI appears to question the use of the analyses of central processor transactions and software lines of code to allocate central processor and software support costs, respectively, because the methods are not "intuitively obvious."²⁸ The BOCs have provided detailed descriptions of the

²⁸ Id. p 69.

methodologies used to allocate SMS/800 costs to rate elements which demonstrate that the methods used are logical and reasonable.²⁹ Just because this is not "intuitively obvious" to MCI does not make it unreasonable.

The BOCs allocated computer processing costs based on actual measurement of central processor transactions over a 30-day period to quantify the relative use of computer processing capacity by each of the SMS/800 services/rate elements. Central processor costs are then allocated on the basis of relative usage (i.e., each service's share of the total number of transactions measured). This method is accurate, direct and reflective of cost causation principles.

Software maintenance cost allocation was based on the number of software lines of code related to each SMS/800 service element. This approach is reasonable since the need for maintenance for existing software is influenced primarily by two factors: the magnitude of the program (in terms of lines of code) because larger programs tend to be more complex, and the software's interaction with new or modified software. Ideally both should be taken into consideration; however, since it is extremely difficult to predict software modification or additions that may be required in the future with reliable accuracy, it is reasonable to base allocations on lines of code magnitude.

It is interesting to note that although MCI has expressed significant concern over this issue, it has never mentioned, suggested or proposed any alternative approaches for consideration.

²⁹ BOCs' direct case pp 15-16 and Attachment I of Appendix 1.

5. The accounting classification of SMS/800 expenses and their treatment for Separations purposes is reasonable.

MCI asserts that the BOCs have inappropriately characterized SMS access as a completely interstate service. In response, it should be recognized that the Commission did not address the jurisdictional nature of the service, but rather mandated in its February 10, 1993, Order in CC Docket No. 86-10 that "access to the Service Management System (SMS) by Responsible Organizations (Resp Orgs) is a Title II common carrier service and shall be provided pursuant to tariff." (para. 1) The Commission also stated in that same Order: "IT IS FURTHER ORDERED that the Bell Operating Companies shall file an (emphasis added) SMS access tariff as described herein by March 5, 1993, to be effective May 1, 1993." (para. 49) The BOCs, in response to this mandate for an interstate tariff filing, complied by filing The Bell Operating Companies' Tariff F.C.C. No. 1 as required on March 5, 1993. If the BOCs were required to split costs between interstate and intrastate jurisdictions, they would: 1) face the difficult task of filing 50 state tariffs which would be inefficient and time-consuming; 2) be required to determine the jurisdiction of each transaction, which would have to be completely arbitrary; and 3) be required to determine which state tariff would apply for intrastate transactions, which would again be completely arbitrary. Additionally, state rates may not be uniform which would add an additional degree of complexity to cost recovery. Clearly, splitting costs between jurisdictions would result in unnecessary costs to file and defend 51 tariffs rather than 1, and would not benefit SMS/800 customers.

Clearly the Commission understood that any effort to split the cost between inter and intrastate would be difficult at best. The existing Separations rules apply to an individual company, not to a group of companies as happens to be the case with the tariff in question. Would some average of existing BOC allocation factors need to be developed, or some arbitrary assignment of the total costs to the seven regions be required? This would ultimately result in rates to which there could hardly be attributed any degree of accuracy.

MCI confuses the relationship of the use of 800 traffic with SMS/800 service. While it is true that 800 traffic can be interstate, intrastate or a combination, this bears no relationship to the operation of the SMS/800 system. SMS/800 is an administrative system used for assignment of 800 numbers. Specifically, it is a database that houses numbers to ensure no duplication of numbers and that appropriate routing databases are notified of the area of service.

The SMS/800 Tariff is properly categorized as completely interstate because the normal communication from the SMS/800 user to the database in Kansas City is an interstate communication. The jurisdiction, or how the 800 number is used, is not relevant. Further, the costs are not incurred within the BOCs' operations, i.e. costs are DSMI/Bellcore, contracted with SWBT or Lockheed IMS Company, and are appropriately not reflected on the individual BOCs' books of account. MCI's allegation that the BOCs are not following the Commission's Rules concerning direct assignment is misplaced since these costs are not the BOCs' costs for the purpose of Part 36 jurisdictional assignment.

Furthermore, it is extremely difficult, if not impossible, to clearly describe those circumstances under which an application would be considered intrastate in nature. For example, assume a service provider is located in New Jersey and is preparing to offer an 800 service in California, while reserving the 800 number from a data base located in Missouri. Under which state tariff should such a service be ordered and provided, or, should it be ordered and provided from an interstate tariff? A better argument can be made in support of the interstate option than in support of any one of the states.

In a second scenario, assume that a service provider plans to route calls using a single 800 number to different POTS numbers, depending on where the call originates. For example, calls to 800-555-1234 originating in Ohio will be routed to a POTS number terminating in Cleveland, Ohio, while calls to the same 800 number, but originating in Indiana, will be routed to a different POTS number, this one terminating in Gary, Indiana. Is the 800 number in this scenario used for an interstate or intrastate application? If considered intrastate in nature, which regulatory authority would have jurisdiction, Ohio or Indiana? Remember that only a single 800 number was reserved and activated in the SMS/800 in Missouri; therefore, only one tariff can apply.

Rates must be set to cover the costs of providing SMS/800 service, i.e. costs divided by demand. MCI seems to be missing this point or is confused with the rate making process by bringing up the Separations direct assignment issue as an appropriate step in the rate making process.

MCI's request for this service to be classified other than interstate should be denied.

6. The BOCs' assumptions in forecasting demand are reasonable.

The demand included in the SMS/800 Tariff has been questioned in the comments of MCI and Sprint.³⁰ The demand information was based on data provided by the future users of the SMS/800 through surveys and direct discussions, as well as historical data based on use of the SMS/800 prior to the initial tariff filing. The data provided by survey respondents was used as provided with no factors applied. The data was less useful than it might have been, however, because only 22 of the eventual 112 users of the system responded to the survey. Even among the parties who did respond, actual usage versus estimated usage has varied widely.³¹ The historical data available for forecasting purposes was based on the use of the SMS/800 prior to the implementation of number portability and represented only a small fraction of the national 800 service. Any stimulation of the service based on the implementation of number portability was assumed to have been included in the few responses to the surveys. Based on the data available, the BOCs provided a reasonable estimate of demand.³²

7. The charge for Resp Org changes is reasonable.

³⁰ MCI pp 70-71; Sprint p 17.

³¹ Sprint p 17.

³² Since the BOCs now have 10 months of actual data, the BOCs have revised the demand in Transmittal #7 filed March 31, 1994.